

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MARGUERITE HOFFMAN, §
§
Plaintiff, § Civil Action No. 3:10-CV-0953-D
§
L&M ARTS, et al., §
§
Defendants. §
§
§

APPENDIX TO
PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT L&M ARTS'
MOTION TO CONTINUE TRIAL SETTING

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Plaintiff Marguerite Hoffman (“Plaintiff”) Files this Appendix to her Memorandum in Opposition to Defendant L&M Arts’ Motion to Continue Trial Setting. Attached hereto are the following documents filed in support of Plaintiff’s memorandum:

DESCRIPTION	EXHIBIT	APPENDIX PAGES
Feb. 7-10, 2012 Email chain between B. Wulff and T. Kurth	A	1-3
Mar. 3-12, 2012 Email chain between A. Spital and K. Blase	B	4-6

Dated: March 20, 2012

Respectfully submitted,

WILLKIE FARR & GALLAGHER LLP

By: /s/Roger Netzer
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing is being served electronically via ECF on all counsel of record on the 20th day of March 2012.

/s/Kennon Scott
Kennon Scott

Exhibit A

From: Kurth, Thomas E. [SMTP:THOMAS.KURTH@HAYNESBOONE.COM]
Sent: Friday, February 10, 2012 4:22:29 PM
To: Bart Wulff
Cc: Netzer, Roger
Subject: RE: Hoffman v. L&M Arts, et al - - - Trial Setting
Auto forwarded by a Rule

I will represent to the court in the certificate of conference that plaintiff is not willing to postpone the trial date. If you wish to add anything more, you can do so.

Tom K.

haynesboone
Thomas E. Kurth
Partner
thomas.kurth@haynesboone.com

Haynes and Boone, LLP
2323 Victory Avenue
Suite 700
Dallas, TX 75219-7673

(t) 214.651.5621
(f) 214.200.0506
(m) 214.215.0481

[vCard](#) | [Bio](#) | [Website](#)

From: Bart Wulff [mailto:BWULFF@shacklaw.net]
Sent: Fri 2/10/2012 9:49 AM
To: Kurth, Thomas E.
Cc: Netzer, Roger
Subject: RE: Hoffman v. L&M Arts, et al - - - Trial Setting

Tom:
I've talked your request over with my colleagues and client. The answer is as follows:
We are happy with the current trial setting and have no desire to move it.
We agreed to move it to October but you have declined that based on an unspecified scheduling conflict of an unspecified lawyer.
You have asked us to agree to move the trial to December 3. We prefer the current trial setting but we have no conflict that would prevent us from trying it at that time.
We would also be willing to consider a joint request to the court to move the trial to any earlier date that would work for the defense group but would obviously have to check our schedules before agreeing to that.
If you wish to move the court to amend the scheduling order to change the trial date you can represent to the court that our position is as set forth above.
Thanks,
Bart

From: Kurth, Thomas E. [mailto:Thomas.Kurth@haynesboone.com]

Sent: Tuesday, February 07, 2012 4:06 PM

To: Bart Wulff

Subject: Hoffman v. L&M Arts, et al - - - Trial Setting

Bart, the folks at Cleary advised me today that their dance card is already full in October. May I suggest that the trial be postponed less than a month, to begin on December 3. Cleary and L&M's counsel are agreeable to that schedule. Please advise as to y'all's disposition on that proposal.

Tom K.

haynesboone

Thomas E. Kurth

Partner

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Exhibit B

From: Blase, Kristie [Kristie.Blace@srz.com]
Sent: Monday, March 12, 2012 6:16 PM
To: Spital, Andrew
Cc: Jonathan BLACKMAN; Howard ZELBO; David H Herrington; Melissa K Marler; Jamie Rietema; Esti Tambay; kschwarz@jw.com; Kurth, Thomas E.; Abrahams, Robert; White, Will; Netzer, Roger; Eaton, Mary; bwulff@shacklaw.net
Subject: RE: Hoffman: Motion to Continue the Trial Setting

Andy,

To respond to your questions:

First, we do not have any agreement with Tobias Meyer to attend the trial. As we noted in our motion, Tobias Meyer is a potential witness in this case. Because of the fall Sotheby's auction, he would not be able to attend the trial as currently scheduled. Plaintiff is welcome to work with Mr. Meyer to agree to dates that he would be able to attend a trial in this matter.

Second, Jonathan Blackman and David Herrington from Cleary will be attending the October 2012 hearing before the London Court of International Arbitration. The tribunal notified counsel by email on January 11 and by letter on January 12 that the hearing would take place on those dates. The tribunal also informed them that this was the only week in the fall and winter of 2012 that would work for the tribunal. This conflict makes moving the trial to October impossible.

Finally, Jonathan Blackman from Cleary will be attending the Paris arbitration hearing in September 2012, in a matter in which he represents the Russian Federation. The hearing was scheduled in September 2011, well before we received Judge Fitzwater's order setting the November trial date. This conflict makes moving the trial to September impossible, and again demonstrates why an earlier setting is not possible.

Regards,
Kristie

Kristie M. Blase
Associate
212.756.2466 | kristie.blase@srz.com

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New York, New York 10022
212.756.2000 (main) | 212.593.5955 (fax) | www.srz.com

From: Spital, Andrew [<mailto:ASpital@willkie.com>]
Sent: Saturday, March 03, 2012 1:15 PM
To: Blase, Kristie
Cc: Jonathan BLACKMAN; Howard ZELBO; David H Herrington; Melissa K Marler; Jamie Rietema; Esti Tambay; kschwarz@jw.com; Kurth, Thomas E.; Abrahams, Robert; White, Will; Netzer, Roger; Eaton, Mary; bwulff@shacklaw.net
Subject: Hoffman: Motion to Continue the Trial Setting

Dear Kristie,

L&M's motion to continue the trial setting raises some scheduling concerns of which we had been previously unaware. It would help us consider them if you would elaborate on the following:

1. It appears from the motion that defendants have procured Tobias Meyer's commitment to attend the trial in person. Can you tell us the details of your agreement with him? What assurance can you offer the Court that he will appear at any adjourned date?
2. Lead counsel for defendants Studio Capital and David Martinez have a previously scheduled one week hearing in London in an international arbitration before the London Court of International Arbitration during the week of October 22-26. When was the hearing scheduled? Which individual attorneys for Studio Capital and Mr. Martinez have this conflict?
3. Lead counsel for defendants Studio Capital and David Martinez also have a one-week arbitration hearing in Paris on another matter the week of September 18, 2012. When was it scheduled? Which individual attorneys for Studio Capital and Mr. Martinez have this conflict?

Thanks,
Andy

Andy Spital
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